

Congress of the United States
Washington, DC 20515

November 22, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
301 7th Street S.W.
Washington, DC 20528

Dear Secretary Mayorkas:

The Department of Homeland Security's newly created categorical parole program for Venezuelan nationals is yet another misguided immigration policy of the Biden Administration and flagrant violation of immigration law. It ignores Congressional intent and departs from how past administrations have exercised case-by-case parole authority. Even worse, it does nothing to secure the southern border or prevent the continued and unprecedented surge of aliens across that border.

Article I, Section 8, Clause 4, of the Constitution vests plenary power over immigration law with Congress. In 1952, Congress created the parole authority to allow aliens without the legal means to enter the United States a way to do so for a temporary period. Over time, administrations began to abuse the parole authority by using it to admit large classes of aliens not otherwise admissible to the United States for an indefinite period of time. In 1996, in response to increasing abuse of parole authority by the executive branch, Congress placed explicit restrictions on the parole authority. The restrictions—which are codified in Section 212(d) of the Immigration and Nationality Act (INA)—require that parole be used only on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.”¹

Prior administrations have recognized Congress's intent with respect to parole authority. For instance, in 2008 the Bush Administration noted that “parole is an extraordinary measure, sparingly used only in urgent or emergency circumstances, by which the Secretary may permit an inadmissible alien temporarily to enter or remain in the United States. Parole is not to be used to circumvent normal visa processes and timelines.”² In 2011, the U.S. Court of Appeals for the Second Circuit made the same point in *Cruz-Miguel v. Holder*, noting that the legislative history

¹ 8 U.S.C. § 1182(d)(5).

² Memorandum of Agreement Between USCIS, ICE, and CBP for the Purpose of Coordinating the Concurrent Exercise By USCIS, ICE, and CBP, of the Secretary's Parole Authority Under INA § 212(D)(5)(A) With Respect to Certain Aliens Located Outside of the United States (Sep. 2008), at 2, available at <http://www.ice.gov/doclib/foia/reports/parole-authority-moa-9-08.pdf>.

of the 1996 change to the parole statute “was animated by concern that parole under [section 212(d)(5)(A)] was being used by the executive to circumvent congressionally established immigration policy.”³

Categorical parole programs, such as the newly created one for Venezuelans, are an abuse of the “case-by-case” parole authority provided by Congress in Section 212(d). Under the new program for Venezuelan nationals, “[a]ny U.S.-based individual with lawful status, including representatives of businesses or other organizations or entities, can support a potential beneficiary,” who will be paroled into the United States and eligible to receive a work permit.⁴ You have described this new program as a “new lawful pathway created” for Venezuelan nationals to enter and live in the United States.⁵ The Secretary of DHS cannot legally “create” any such “pathway” and your assertion otherwise is just another example of how the Biden Administration displays contempt for enforcing federal immigration law as set by Congress.

The details of the Venezuelan parole program are also suspect and, in some instances, are even misleading. For instance, your announcement specified that the program is intended for “up to 24,000” Venezuelans.⁶ However, during an October 13, 2022, staff briefing, DHS officials admitted that the 24,000 figure was the “initial commitment” and that the Department would revisit the number for increase.⁷ DHS offered few details as to what types of individuals and groups, including nongovernmental organizations, could sponsor parolees. Incredibly, the DHS officials could not provide specifics about how the Biden Administration would vet those aliens claiming to be Venezuelan nationals. It was also unclear from the briefing what funding, resources, and other commitments were promised to Mexico in exchange for the country’s acceptance of expelled Venezuelans.

We are also concerned about the “supporter” process that allows individuals or entities inside the United States to apply for the parole program on behalf of Venezuelan nationals. According to DHS, aliens who are only in the country temporarily, and even those in the country illegally but whose removal action has been temporarily deferred, would be eligible to be a Venezuelan parolee “supporter.”⁸ In addition to making a mockery of federal immigration law, this policy raises obvious questions about what happens to a parolee whose supporter is no longer in the country.

To assist us with our continued oversight of federal immigration policy and procedures, we ask that you please provide the following documents and information:

³ *Cruz-Miguel v. Holder*, 650 F.3d 189, 199 n. 15 (2d Cir. 2011). See H.R. Rep. No. 104-169, pt. 1, at 140-41 (1996).

⁴ U.S. Dep’t of Homeland Security, *DHS Announces New Migration Enforcement Process for Venezuelans*, (Oct. 12, 2022) <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>.

⁵ U.S. Dep’t of Homeland Security, *DHS Announces New Migration Enforcement Process for Venezuelans*, (Oct. 12, 2022) <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>.

⁶ U.S. Dep’t of Homeland Security, *DHS Announces New Migration Enforcement Process for Venezuelans*, <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans>.

⁷ Briefing by U.S. Dep’t. of Homeland Security and U.S. Dep’t. of State officials for House and Senate staff, Oct. 13, 2022.

⁸ U.S. Citizenship and Immigration Services, *Process for Venezuelans*, <https://www.uscis.gov/venezuela>.

1. The specific statutory authority under which you created the parole program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans.”
2. All documents and communications referring or relating to the creation of the parole program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans.”
3. Please explain whether Venezuelan family units will be expelled pursuant to Title 42.
4. Please provide an exhaustive list, by immigration status, of the classes of aliens who are eligible to be a supporter.
5. Please list each term and condition of parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans.”
6. On an on-going and monthly basis since October 12, 2022, please provide:
 - a. the number of Venezuelan nationals encountered by DHS officials between ports of entry along the southwest border;
 - b. the number of Venezuelan nationals expelled pursuant to Title 42;
 - c. the number of supporters who have filed a Form I-134 on behalf of a beneficiary pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans;”
 - d. the number of Venezuelan nationals on whose behalf a Form I-134 has been filed pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans;”
 - e. the number of Venezuelan nationals granted parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans;”
 - f. the number of Venezuelan nationals granted parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans,” who have applied for employment authorization;
 - g. the number of Venezuelan nationals granted parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans,” for whom employment

- authorization has been approved;
- h. the number of approved supporters who have filed a Form I-134, disaggregated by the following categories:
 - i. U.S. citizen;
 - ii. lawful permanent resident;
 - iii. conditional permanent resident;
 - iv. lawful temporary resident;
 - v. nonimmigrant in lawful status, disaggregated by nonimmigrant visa category;
 - vi. asylee;
 - vii. refugee;
 - viii. parolee;
 - ix. temporary protected status holder;
 - x. beneficiary of Deferred Enforced Departure;
 - xi. Deferred Action for Childhood Arrivals (DACA) recipient;
 - xii. other deferred action recipient; and
 - xiii. other category;
 - i. the number of approved supporters whose approved temporary status in the United States is set to expire within the two-year period for which they agreed to support the Venezuelan parolee.
 - j. the number of approved supporters whose approved temporary status in the United States has expired.
 - k. the number of Venezuelan nationals granted parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans” who have requested a Social Security Number as part of the Form I-765, Application for Employment Authorization;

- l. the number of Form I-134s submitted by individuals representing an entity; and
- m. the number of aliens granted parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans,” whose parole has been terminated and the reasons for each termination.

In addition, please answer the following questions:

- 7. What is the maximum number of parolees on whose behalf a supporter can file a Form I-134?
- 8. Does DHS query any Venezuelan security and criminal database when determining whether a purported Venezuelan national who is the beneficiary of a Form I-134 is a national security or public safety threat, or is otherwise inadmissible?
- 9. Will an alien who does not possess a Venezuelan passport, but who claims to be Venezuelan for purposes of being a beneficiary of the parole program described in the October 12, 2022, DHS announcement entitled, “DHS Announces New Migration Enforcement Process for Venezuelans,” be denied advanced travel authorization and parole?
- 10. How does DHS intend to determine the validity of Venezuelan passports?
- 11. In the event that an entity seeks to be a supporter by filing a Form I-134, will all individuals in the entity undergo security and background vetting?
- 12. Will the household members of an individual supporter who files a Form I-134 undergo security and background vetting?
- 13. What specific policy, resource, monetary, or other promises were made to Mexico in order for it to agree to the expulsion of Venezuelans into Mexico’s interior?
- 14. What, if any, numerical limit, overall and per-border patrol sector, has the Mexican government placed on the daily Title 42 expulsion of Venezuelans pursuant to this program?
 - a. If such a daily limit exists, how will DHS process those Venezuelans who are encountered after that limit is reached?
- 15. Why are Venezuelans who have previously been ordered removed from the United States, and those who have previously entered the United States illegally, eligible for the parole program?

16. Will you commit to notifying us well in advance of increasing the initial commitment of 24,000 Venezuelan nationals under this new program.
17. What are the consequences for the parolee when a supporter's temporary status in the U.S. has ended or has otherwise been terminated?
18. Will DHS terminate the parole of a parolee when a supporter's temporary status in the U.S. has ended or has otherwise been terminated?
19. What are the consequences for a parolee whose supporter has been placed in immigration removal proceedings?
20. Will DHS terminate the parole of a parolee whose supporter has been placed in immigration removal proceedings?
21. How will DHS monitor a parolee's compliance with the terms and conditions of parole?
22. What are the consequences of a parolee's failure to comply with the terms and conditions of parole?
23. Will DHS terminate the parole of a parolee who fails to comply with the terms and conditions of parole?
24. Given that Venezuela is not currently repatriating its nationals, in the event that the parole of an individual granted parole pursuant to the program described in the October 12, 2022, DHS announcement entitled, "DHS Announces New Migration Enforcement Process for Venezuelans" is terminated, to what country will DHS remove the alien?

Please provide the entirety of this material as soon as possible, but no later than 5:00 p.m. on December 6, 2022. If you have any questions, please contact Committee staff at (202) 225-6906.

Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Ranking Member
House Committee on the Judiciary



Charles Grassley
Ranking Member
Senate Committee on the Judiciary

cc The Honorable Jerrold Nadler, Chairman, House Committee on the Judiciary
The Honorable Richard J. Durbin, Chairman, Senate Committee on the Judiciary